

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE DIVISION**

MATTHEW THOMPSON,

Plaintiff,

v.

CONSOLIDATED  
CASE NO. 4:14cv465-RH/GRJ

B. SMITH et al.,

Defendants.

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**ORDER DIRECTING THE CLERK TO NOTIFY  
BAR MEMBERS OF THE OPPORTUNITY  
TO REPRESENT THE PLAINTIFF PRO BONO**

The clerk must send a notice to all attorneys registered with the court's electronic filing system. The notice must state:

This is a notice of an opportunity to provide pro bono representation in a jury trial. The case is Matthew Thompson v. B. Smith et al., Consolidated Case No. 4:14cv465-RH/GRJ.

The case is set for trial in Tallahassee during the two-week trial period that begins on Monday, August 21, 2017. The trial probably will take two days. The trial will be rescheduled on the motion of an attorney who agrees at or before the pretrial conference to undertake the representation. The pretrial conference is scheduled for August 4, 2017.

The plaintiff, Mr. Thompson, alleges, among other things, that correctional officers sprayed him with oleoresin capsicum for no reason. Spraying a prisoner for no reason violates the Eighth Amendment. The defendants admit that Mr. Thompson was sprayed but assert the spraying was a proper means of maintaining discipline and restoring order. An officer may spray a prisoner to maintain discipline or restore order; doing so does not violate the Eighth Amendment. Mr. Thompson also asserts that officers retaliated against him for filing grievances or lawsuits, thus violating the First Amendment.

Mr. Thompson's claim for nominal damages—but not for compensatory or punitive damages—has survived summary judgment. Most witnesses have submitted affidavits. Witness lists are complete. An attorney undertaking the representation might choose to interview the plaintiff's witnesses in person or by telephone and might choose to prepare to cross-examine the defense witnesses based on their affidavits.

Public funds are not available for the payment of attorney's fees. Fees may be recoverable under applicable law if Mr. Thompson ultimately prevails. *See* 42 U.S.C. §1988. Limited funds sometimes are available from the district's Bench and Bar Fund for the payment of out-of-pocket expenses incurred by an attorney providing representation of this type.

Members of the district's bar will be afforded access to the electronic docket without charge for the purpose of considering whether to undertake the representation. An attorney who wishes to provide representation may contact Mr. Thompson directly and may enter the case by filing a notice of appearance.

An attorney who wishes to appear should file a notice before the pretrial conference.

SO ORDERED on July 18, 2017.

s/Robert L. Hinkle

United States District Judge